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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/815,910

03/23/2001

Dan Streja

7402

7590

09/16/2003

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Scarsdale, NY 10583

EXAMINER

MISKA, VIT W

ART UNIT

PAPER NUMBER

2841

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/815,910

Applicant(s)

STREJA

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the “data entry unit to input parameters that describe mathematical positive, monotonic functions”, as recited in claim 1 the specification merely notes at page 8 that “the function can be dynamically programmed ...” but lacks any details with regard to the specific features claimed. Applicant may correct this deficiency by incorporating the noted subject matter of claim 1 into the detailed description of the specification, without introducing new matter.

The specification further includes a computer program at pages 16-19.

37CFR1.96 sets forth requirements for incorporating computer programs into a specification:

§ 1.96 Submission of computer program listings.

(b)(2)(ii) Specification

Any listing having more than 60 lines of code that is submitted as part of the specification must be positioned at the end of the description but before the claims. Any amendment must be made by way of submission of a substitute sheet.

Accordingly, the computer program should be cancelled and submitted on separate sheets at the end of the description and before the claims.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "data entry unit" of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Further, the view of the drawing should be consecutively numbered (i.e. Figs. 1-6). (37CFR1.84(u)(1)).

Applicant should further check the drawing for correspondence of the reference numerals with those in the specification. For example, reference numerals 104, 105 are not shown in the drawing. Numerals 106 and 107 appear twice in Fig. 10.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

### ***Claim Objections***

3. Claims 1-20 are objected to because of the following informalities: each claim should be one sentence with a period only at the end of each claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, 9-16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the U.S. patent to Aronzo. With respect to claims 1 and 11, the patent discloses a programmable machine for measuring time including data entry unit 40-56, memory associated with memory key 55, clock 26, and display 32, 34, 26, 40.

An arithmetic logical computation unit is not specifically mentioned as a separate component in the patent. However, the embodiment of Fig. 3 described at cols. 4-6 implies that time and other computations are performed when inputting time parameters as well as question and section data for the test. Thus, it would be obvious to one

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skilled in the art that some type of an arithmetic logical unit is embodied in the device of Aronzo for performing operations on this data.

With respect to claims 2,3,6, 7,9, 12, 13, 16, 18 and 19, display registers for storing data displayed are suggested at co. 4, line 53 (display 34 is part of a counter mechanism), data entry unit including memory commands 55, pre-programmed function selections 42, a count down or count up mode timer suggested at col. 7, lines 30 and 41, memory associated with keys 42 for storing several sections of the test independently described at col. 6, lines 31ff, audible alarm 13 for indicating timer event change and start/stop buttons 44, 52. With respect to claims 9 and 18, the use of earphones for outputting audible signals is a well known alternative or addition to external speakers and one skilled in the art would be familiar with incorporating this feature into any electronic device.

Regarding claims 5, 14 and 15, the manner of inputting data for display and for programming the test parameters are described at col. 5, line 16 through col. 6, line 49.

5. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aronzo as applied to claims 2 and 12, respectively, above, and further in view of Selwyn et al. The Selwyn reference teaches the announcement of time by audible signals with a non-linear time transformation, i.e. with increasing frequency in proportion to time. One skilled in the art having both references would thus have a suggestion that time

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announcements in Aronzo may be provided in a non-linear manner to inform the user of the impending expiration of time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 703-308-3096. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 703-308-3121. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

VM  
9/2/2003

  
Vit Miska  
Primary Examiner